

**Court No. - 45**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 17913 of 2023

**Petitioner :-** Gulzar

**Respondent :-** State Of U.P. And 4 Others

**Counsel for Petitioner :-** Ashok Kumar Yadav

**Counsel for Respondent :-** G.A.

**Connected with**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 17769 of 2023

**Petitioner :-** Mujahid Raja

**Respondent :-** State Of U.P. And 2 Others

**Counsel for Petitioner :-** Hari Nath Chaubey

**Counsel for Respondent :-** G.A.

**Hon'ble Vivek Kumar Birla,J.**

**Hon'ble Vinod Diwakar,J.**

1. Supplementary affidavit filed today in leading petition is taken on record.
2. Heard Sri Ashok Kumar Yadav, learned counsel for the petitioner in the leading petition, Sri Hari Nath Chaubey, learned counsel appearing for the petitioner in the connected matter and Sri Ratan Singh, learned A.G.A. appearing for the State respondents.
3. Both petitions have been preferred with the prayer to quash the impugned first information report dated 24.8.2023 registered as Case Crime No. 422 of 2023, under Sections 3(1) of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station Saurikh, District Kannauj.
4. Submission of learned counsel for the petitioners is that the details of the base First Information Report have not been mentioned in the impugned first information report and without any details impugned first information report has been lodged, therefore, there is violation of provisions of U.P. Gangsters and Anti-Social Activities (Prevention) Act (hereinafter referred to as

the Gangsters Act). Attention was drawn to a judgment of this Court dated 2.12.2023 passed in Criminal Misc. Writ Petition No. 18729 of 2023 (Asim @ Hassim vs. State of U.P. and others) to contend that after considering the definition of 'gang' as provided under Section 2(b), 2(c) and the penalty clause provided under Section 3 of the Gangsters Act proceeding of the Gangsters Act was quashed. It is next submitted that as the necessary details have not been mentioned in the impugned first information report, learned counsel for the petitioners further submit that the details / facts given in the impugned first information report are different from the base first information report, therefore, the impugned FIR is vague and the same is liable to be quashed.

5. Per contra, learned A.G.A. has opposed the petition and placed reliance upon the judgment rendered by Hon'ble the Apex Court in the case of **Shraddha Gupta vs The State Of Uttar Pradesh reported in 2022 SCC OnLine SC 514** and submits that even for a single offence/FIR, an accused person can be prosecuted under the U.P. Gangster and Anti Social Activities (Prevention) Act, 1986. He also submitted that there is no violation of Gangsters Act and the U.P. Gangsters and Anti-Social Activities (Prevention) Rules, 2021.

6. We have gone through the petitions and thincluinge grounds taken in the petitions, and in both petitions only general grounds have been taken. No specific ground claiming violation of any provisions of the Act or the Rules has been taken in the entire petition in both cases. Further, the base first information report has not been annexed in either of the petitions. The petitioner in the leading petition, namely, Gulzar is the gang leader and three criminal cases are standing against him. The petitioner in the connected matter, namely, Mujahid Raja is the member of the gang and there are two cases recorded against him. It has been clearly mentioned in the gang chart that in Case Crime No. 453 of 2022, under Sections 3/5/8 of Cow Claughter Act and Section 11 of Animal Cruelty Act charge-sheet has already been submitted.

7. These facts are not in dispute.

8. We find that the base first information report has not been annexed in either of the petitions and attention was only drawn to the bail order and anticipatory bail order passed in respect of the petitioners. Even, on perusal of the bail order of Case Crime No. 453 of 2022 this much clearly reflected that 61 progeny / cattles were being transported in a closed container, where three animal died. This clearly reflects that such animals were being transported

and the word 'transport' is clearly mentioned in Section 2(b) (xvii) of the Gangsters Act, which provides as under:-

"2(b). .....

(xvii) illegally transporting and/or smuggling of cattle and indulging in acts in contravention of the provisions in the Prevention of Cow Slaughter Act, 1955 and the Prevention of Cruelty to Animals Act, 1960;"

9. It has been clearly mentioned in the impugned first information report that such activities were being carried out for financial gain, which is also covered under the provisions of Gangsters Act.

10. We have also gone through the order dated 21.12.2022 passed in Criminal Misc. Writ Petition No. 19354 of 2022 (Gulzar vs. State of U.P. and others) and find that such interim order was in respect of another Case Crime No. 491 of 2022, under Section 3(1) of Gangsters Act, Police Station Bhoganipur, District Kanpur Dehat, therefore, it is clear that two different first information reports under the provisions of Gangsters Act have been lodged against the gang leader herein Gulzar. This clearly reflects that he is consistently indulging in such activities. Insofar as the petitioner in the connected petition is concerned, two cases are being reflected against him.

11. It has already been decided by Hon'ble Apex Court in the case of **Shraddha Gupta vs The State Of Uttar Pradesh reported in 2022 SCC OnLine SC 514** that even on the basis of a single case Gangster Act can be imposed.

12. Rule 22 of the Gangster Rule, 2001 clearly provides that criminal history is not required and the FIR under the Gangster Act can be registered on the basis of a single case. Hon'ble Apex Court has also held the same in **Shraddha Gupta (supra)**.

13. A reference may also be made to the judgement and order dated 4.8.2023 passed in **Criminal Misc. Writ Petition No. 10708 of 2023 (Usman and 2 others vs. State of UP and 2 others)** wherein all such aspects have been already been dealt with by this Court.

14. Learned counsel for the petitioners failed to substantiate any violation of the Act and the Rules framed thereunder.

15. We are, therefore, of the opinion that the judgment relied on by learned counsel for the petitioners in the case of **Asim @ Hassim (supra)** is of no help, where facts of **Asim's** case shall have no

bearing on facts-circumstances of the instant case; the petitioners' case are at different footing and facts have not been considered, whereas in the instant case on perusal of impugned FIR, the ingredients of cognizable offence are made out and therefore, would not be applicable.

16. In such view of the matter, we do not find any good ground to interfere in both cases.

17. Both petitions are devoid of merits and are accordingly, dismissed.

**Order Date :- 13.12.2023**

Lalit Shukla